

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

EBER GRAMAJO,

Petitioner,

v.

MARK NOOTH, Superintendent, Snake
River Correctional Institution,

Respondent.

Case No. 2:15-cv-02341-YY

OPINION AND ORDER

MOSMAN, J.,

On June 16, 2021, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (“F&R”) [ECF 98], recommending that this court deny Petitioner’s Amended Petition for Writ of Habeas Corpus [ECF 85], dismiss this case with prejudice, and deny a certificate of appealability. Petitioner filed objections [ECF 102] to the F&R on July 26, 2021. Respondent responded to those objections on August 4, 2021. Upon review, I agree with Judge You. I DENY the petition and DISMISS this case.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

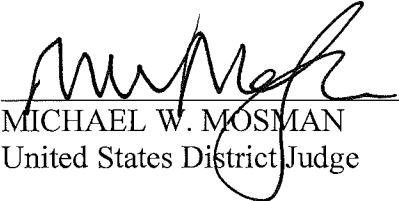
recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge You's recommendation and I ADOPT the F&R [ECF 98]. I DENY Petitioner's Amended Petition for Writ of Habeas Corpus [ECF 85] and DISMISS this case with prejudice. I DENY a certificate of appealability.

IT IS SO ORDERED.

DATED this 16th day of October, 2021.


MICHAEL W. MOSMAN
United States District Judge